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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,833	05/25/2001	Carlton Plunk	ZK522/00008	5838



7590 06/05/2002
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

[REDACTED] EXAMINER

NEGRON, ISMAEL

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2875

DATE MAILED: 06/05/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

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 Office Action Summary	Application No.	Applicant(s)
	09/865,833	PLUNK, CARLTON
	Examiner	Art Unit
	Ismael Negron	2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 May 2001.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,6-17,20,21 and 23-26 is/are rejected.
- 7) Claim(s) 4,5,18,19 and 22 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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Art Unit: 2875



DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either an application data sheet or supplemental oath or declaration.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6-17, 20, 21 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price (U.S. Pat. 4,238,815) and Weathers (U.S. Pat. 6,210,019).

Price discloses a recessed light fixture having:

- **a fixture housing**, Figure 2, reference number 10;
- **a low profile reflector having a first and a second side edge**, Figure 2, reference number 103;
- **the reflector being generally concave in shape**, Figure 2;

- **a ballast**, Figure 2, reference number 56;
- **a plurality of lamp holders**, Figure 2, reference number 71;
- **the plurality of lamp holders being electrically connected to the ballast**, inherent;
- **the fixture fitting inside the housing and being retained therein**, Figure 2;
- **a first and second supporting tab located on the first and second side edge**, Figure 2, reference number 107;
- **the first and second side edge being formed of a first and second flange, respectively**, Figure 2;
- **the first and second flange being compressed against a first and second flange on the housing**, column 6, lines 53-61;
- **a plurality of paired lamp holders**, inherent;
- **the reflector having a pre-defined length**, inherent;
- **the pre-defined length of the reflector being less than the length of the housing**, inherent;
- **the paired lamp holders being in parallel arrangement**, Figure 3;
- **the reflector being flexible about its longitudinal axis**, column 6, lines 48-61;
- **the lamp holders being for supporting lamps**, column 5, lines 43-48;

- the lamp holders being arranged to hold lamps of length less than the length of the housing, Figure 3;
- the first and second flange cooperating with an inverted T-bar grid to support the housing, Figure 2; and
- the width of the reflector being able to be reduced to less than the width of the housing, inherent.

Price discloses all the limitations of the claims, except the light fixture being designed for retrofitting existing fixtures.

Weathers discloses fluorescent light structures for retrofitting existing fixtures.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of both Price and Weathers to obtain a fluorescent light fixture that would fit existing fixture housings to adapt the old fixture for using newer, more efficient and brighter fluorescent lamps, as per the teachings of Weathers (column 1, lines 34-60).

Relevant Prior Art

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chester (U.S. Pat. 3,058,611), **Miller et al.** (U.S. Pat. 3,790,774), **Rodin** (U.S. Pat. 4,928,209), **Neary et al.** (U.S. Pat. 5,274,533) and **Newell** (U.S. Pat. 5,412,551) disclose fluorescent lamp fixtures for recessed installation inside a ceiling opening.

Simpson (U.S. Pat. 5,371,661) and **Kotloff** (U.S. Pat. 6,059,424) disclose fluorescent lamp fixture for retrofitting existing fixtures.

Allowable Subject Matter

4. Claims 4, 5, 18, 19 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Since allowable subject matter has been indicated, applicant is encouraged to submit formal drawings in response to this Office Action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

6. The following is a statement of reasons for the indication of allowable subject matter:

Applicant teaches a light fixture structure for retrofitting existing fixtures, such structure having a reflector supporting lamp holders, the lamp holders being staggered about one another.

No prior art was found teaching individually, or suggesting in combination, all of the features of the applicants' invention, specifically the staggered relationship of the lamp holders.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (703) 308-6086. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (703) 305-4939. The facsimile machine number for the Art Group is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

Inr

May 30, 2002

Notice of References Cited		Application/Control No. 09/865,833	Applicant(s)/Patent Under Reexamination PLUNK, CARLTON	
		Examiner Ismael Negron	Art Unit 2875	Page 1 of 1



U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-3,058,611	10-1962	Chester, Charles R.	220/3.5
	B	US-3,790,774	02-1974	Miller et al.	362/220
	C	US-4,238,815	12-1980	Price, Edison A.	362/218
	D	US-4,928,209	05-1990	Rodin, Bruce W.	362/217
	E	US-5,274,533	12-1993	Neary et al.	362/221
	F	US-5,371,661	12-1994	Simpson, Alexander L.	362/219
	G	US-5,412,551	05-1995	Newell, Alan A.	359/850
	H	US-6,059,424	05-2000	Kotloff, Ronald F.	362/220
	I	US-6,210,019	04-2001	Weathers, Robert W.	362/220
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)			
	U				
	V				
	W				
	X				

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

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box →

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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 1

Complete If Known

05/25/01
09/865833 PRO

FOREIGN PATENT DOCUMENTS

**Examiner
Signature**

EXAMINER: Initiate reference.

Date
Considered

5/29/02

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and note considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. ² See attached Kinds of U.S. Patent Documents. ³ Enter Office that issued the document, by the two-letter code (WIPO STANDARD ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO STANDARD ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U. S. Patent and Trademark Office, Washington, DC 20231.
DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Interview Summary		Application No.	Applicant(s)
		09/865,833	PLUNK, CARLTON
		Examiner	Art Unit
		Ismael Negron	2875

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ALL PARTIES

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All participants (applicant, applicant's representative, PTO personnel):

- (1) John A. Ward. (3) Jeffrey A. Haeberlin.
 (2) Ismael Negron. (4) _____.

Date of Interview: 23 August 2002.

Type: a) Telephonic b) Video Conference
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.
 If Yes, brief description: _____.

Claim(s) discussed: 8-13.

Identification of prior art discussed: Price (U.S. Pat. 4,238,815) and Wathers (U.S. Pat. 6,210,019).

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

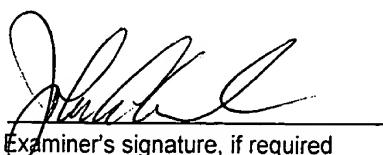
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) It is not necessary for applicant to provide a separate record of the substance of the interview(if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative presented the argument that combining the Price and Weathers references still fell short in disclosing all the limitations of the claims. However, it was noted that while the combination did not disclose all the claimed limitations, the instant invention would have flown naturally from the combined teachings of the prior art and the knowledge readily available to one of ordinary skill in the art at the time the invention was made. It was agreed that including the "hanging tab" limitation into the discussed claims would overcome the rejection based on the combination of Price and Weathers. A new and updated search will be performed when/if the proposed amendment is officially filed.